

REMARKS

Reconsideration and allowance of the above referenced application are respectfully requested.

Initially, and upon review of the restriction, it is now noted that Claims 5, 6, 9 should all be within the elected species. The elected species of figure 3 recited a first separator member being a chrome alloy while the second separator member was a nickel alloy. Accordingly, Claim 5 is specific to the selected species. All of Claims 1, 2, 6 and 9 are generic to all species.

The title stands objected to as not being descriptive. In response, the title is amended to "A Separator from a Fuel Cell Having First and Second Portions of Different Materials (as amended)". However, should the examiner have any suggestions for another title, these suggestions would be appreciatively accepted.

Claims 1-2 stand rejected under 35 USC 102 as being anticipated by or in the alternative being obvious over European Patent Publication Number EP 1 098 380 (hereinafter "380"). In response, Claim 1 is amended herewith to obviate the rejection.

The rejection apparently attempts to reason that the same material can carry out both functions of reducing the elusion of metal ions and also making it difficult to form a thick oxide

coating layer. In order to obviate this assertion, Claim 1 has been amended to specify that different materials are used for these functions.

This obviates the rejection over '380 which forms both parts of the separator of the same material.

All of the remaining claims should hence be allowable. In addition, since the generic Claim 1 should now be allowable, all of the dependent claims should similarly be examined.

A notice of appeal is filed herewith in order to ensure co-pendency.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicants ask that all claims be allowed. Please apply the \$500 appeal fee, the \$1020 3 month extension of time fee, and any other applicable charges or credits, to deposit account 06-1050.

Respectfully submitted,

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